

SUBJECT: Home Health Agencies Remain Obligated to Provide Proper Written Advance Beneficiary Notices, Including an Explanation of Demand Bill Rights, Under HHA PPS–ACTION

THIS INSTRUCTION APPLIES TO REGIONAL HOME HEALTH INTERMEDIARIES (RHHIs) ONLY.

This Memorandum is being issued because you must emphasize to Home Health Agencies (HHAs) that existing requirements regarding notice and demand bills, as set forth in Program Memorandum Transmittals A-99-52 and A-99-54, remain in effect following the implementation of the Prospective Payment System for Home Health Agencies on October 1, 2000. In addition, you should be aware that on September 26, 2000, HCFA published a Federal Register notice seeking emergency OMB clearance, pursuant to the Paperwork Reduction Act, of a revised uniform Home Health Advance Beneficiary Notice (HHABN), which we expect to make mandatory in January 2001. The instructions in PMs A-99-52 and A-99-54 will remain in effect until instructions are issued to implement the revised uniform HHABN. Immediately, you are to mail to all HHAs that submit bills to you the following message, reproduced verbatim, and post the message, verbatim, on your website. Also publish this message, verbatim, in your next provider bulletin.

Bulletin -- You Remain Obligated to Provide Proper Written Advance Beneficiary Notices (ABNs), Including an Explanation of Demand Bill Rights Under HHA PPS

The purpose of this Bulletin is to clarify that existing requirements regarding notice and demand bills, as set forth in Program Memorandum Transmittals A-99-52 and A-99-54, remain in effect following the implementation of the Prospective Payment System for Home Health Agencies on October 1, 2000. Thus, in accordance with the instructions in PMs A-99-52 and A-99-54, you continue to be responsible for providing proper Advance Beneficiary Notices (ABNs) and for submitting demand bills to Regional Home Health Intermediaries (RHHIs) when requested to do so by a beneficiary or by a person acting on the beneficiary's behalf. You must give a Medicare beneficiary a proper ABN before reducing or terminating home health care the beneficiary already is receiving, if the physician's order for such care would still continue the care, and you believe that the services do not meet Medicare coverage criteria. In instances where care has not yet been initiated and you believe services ordered by the physician do not meet Medicare coverage criteria, you must also provide a proper ABN. The transition to PPS does not change your responsibility to follow these procedures for plans of care in which the physician's order spans the transition. Currently, you may use model HHABNs designed by HCFA or forms of your own design to meet the beneficiary notification requirement. OMB approval of these model notices will be extended into January, 2001. However, HCFA is also in the process of obtaining OMB approval of a revised uniform notice and you will be given

further instructions once OMB approval is received. We write now, at the direction of HCFA, to emphasize that the demand bill process remains in effect, and must be used now, and upon implementation of HHA PPS on October 1, 2000, to ensure continuation of beneficiary rights to obtain an official Medicare initial determination.

Meaning of “Prompt” Submission Under HHA PPS

When a beneficiary agrees to be fully and personally responsible for payment for the services if Medicare decides the services are not covered, and has requested that a claim be submitted to Medicare, you must “promptly” submit a claim to the RHHI and report, on the claim submitted, condition code 20 (demand-beneficiary requested billing) to indicate the beneficiary believes the services are covered (see PM A-99-52 §I-2A). Under HHA PPS, you may submit only one claim for payment at the end of each episode of care. See 65 Fed. Reg. 41,128 (July 3, 2000) (Medicare Program; Prospective Payment System for Home Health Agencies, Final Rule). Thus, under HHA PPS, “prompt submission” of a claim with the demand bill code requires that the claim (i.e., the demand bill) be submitted at the end of the episode in question, at the time that you submit your claim for final payment for the episode. See 65 Fed. Reg. at 41,141 (July 3, 2000) (HHA PPS Final Rule). Pursuant to the HHA PPS Final Rule, where you have received a “request for anticipated payment” (RAP) for an episode, the RAP will be canceled and recovered unless the claim for the episode (with the condition code 20 to indicate that the claim is a demand bill when requested by the beneficiary in the circumstances described in PM A-99-52) is submitted within the greater of 60 days from the end of the episode or 60 days from the issuance of the anticipated payment. 65 Fed. Reg. at 41,141.

Future Plans

On September 26, 2000, HCFA published a Federal Register notice seeking emergency OMB clearance, pursuant to the Paperwork Reduction Act, of a revised uniform mandatory Home Health Advance Beneficiary Notice (HHABN). (The Federal Register notice, which includes procedures for submitting comments on the revised HHABN, the revised uniform HHABN and related documents, including a Supporting Statement, are posted on HCFA’s website at <http://www.hcfa.gov/regs/prdact95htm>, and are also available via an e-mail request sent to Paperwork@hcfa.gov). HCFA has requested that OMB issue an emergency clearance of the proposed uniform HHABN by October 12, 2000, and HCFA intends to make mandatory the use of the HHABN not later than 90 days following OMB approval. (See the Supporting Statement for HCFA-R-0296). HCFA strongly advises that you use the new notices once they are approved rather than waiting until their use becomes mandatory.

The instructions and requirements of PMs A-99-52 and A-99-54 will remain in effect until a further instruction with a new mandatory implementation date is issued. HCFA expects to issue these instructions as soon as it receives emergency approval by the Office of Management and Budget (OMB) for its revised HHABN submitted to OMB, tentatively

scheduled for October 12, 2000.

If you have questions about your obligations, you may contact Ray Boyd at Rboyd@hcfa.gov, telephone number (410) 786-4544.